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In re Application of:	:	
HAYES, Kevin, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/527,764	:	(37 CFR 1.47(a))
PCT No.: PCT/GB2003/003981	:	
Int'l Filing Date: 12 September 2003	:	
Priority Date: 12 September 2002	:	
Attorney's Docket No.: Young-3	:	
For: BOAT	:	

This decision is issued in response to applicants' petition under 37 CFR 1.47(a), filed 24 February 2006. Applicants have submitted \$130 as the petition fee; however, the applicable petition fee is \$200. Deposit Account No. 50-2061 will be charged the additional \$70 required to complete the petition fee.

**BACKGROUND**

On 12 September 2003, applicants filed international application PCT/GB2003/003981. The international application claimed a priority date of 12 September 2002, and it designated the United States. On 25 March 2004, the International Bureau (IB) communicated a copy of the international application to the United States Patent And Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 12 March 2005.

On 11 March 2005, applicants filed a Transmittal Letter for entry into the U.S. national stage accompanied by, among other materials, payment of the basic national fee.

On 01 August 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration acceptable under 37 CFR 1.497 was required.

On 24 February 2006, applicants filed a response to the Notification Of Missing Requirements (with the required five-month extension fee). The response included a declaration executed by one of the two named inventors, and the petition under 37 CFR 1.47(a) considered herein. The petition seeks acceptance of the application without the signature of the remaining inventor, Kevin HAYES, whom applicants assert has refused to execute the application.

### DISCUSSION

A grantable petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17; (2) a statement of the last known address of the nonsigning inventor; (3) an oath or declaration by the other inventors on behalf of the other inventors on behalf of themselves and the nonsigning inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort.

Applicants here have submitted \$130 for the petition fee, and Deposit Account No. 50-2061 will be charged the additional \$70 required to complete the \$200 petition fee. Accordingly, item (1) is satisfied.

The petition expressly states the last known addresses of the non-signing inventor. Accordingly, item (2) is satisfied.

Regarding item (3), section 409.03(a) of the Manual of Patent Examining Practice (MPEP) states that:

An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Here, applicants have filed a declaration executed by one of the two inventors and including an unsigned signature box for the non-signing inventor. This declaration is treated as having been executed by the available inventor on his own behalf and on behalf of the non-signing inventor. Item (3) is therefore satisfied.

Regarding item (4), the petition provides a firsthand statement, with supporting documents, demonstrating that a request for signature, accompanied by a copy of the complete application was forwarded to the inventor at his last known address, that the inventor signed for receipt of this envelope, and that the inventor failed to provide the requested signature in reply to this and a subsequent written request. These materials provide an acceptable showing that the non-signing inventor has refused to execute the declaration. Item (4) is therefore satisfied.

### CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **GRANTED**.

The application is accepted without the signature of inventor Kevin HAYES.

A notice of the acceptance of the application will be published in the Official Gazette, and a letter informing the non-signing inventor of the application will be forwarded to the non-signing inventor at his last-known address, as set forth in the petition.

The application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 24 February 2006.

A handwritten signature in black ink, appearing to read 'RMR', is positioned above the typed name.

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